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18 July 1956

OGC Has Reviewed

MEMORANDUM FOR: Chief, Finance Division

ATTENTION : Chief, Agent Service Section

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SUBJECT : Payment of Home Transfer Allowance-

REFERENCE : Your Memorandum, Same Subject, Undated

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1. Your memorandum, which consisted of a comment on the routing and record sheet attached to T [] application for a home service transfer allowance, raised the question of his eligibility for the payment of this allowance at the w/family rate.

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2. Since this seems to be the first time this problem has come up, and it may come up again, we think it best to set out our comments in writing. It appears that [] was stationed in [], and that his wife, traveling independently and at her own expense, went to [] and married him and then continued on around the world. Apparently shortly after his marriage, [] was transferred to this country and his wife rejoined him in Washington. The Chief, FE Division, has certified that

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[] will be transferred to an overseas position following the completion of his tour of duty in the United States. This being so, he becomes eligible for the payment of a home transfer allowance; and the only question remaining is whether he is entitled to this allowance at the w/family rate or the w/o family rate.

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3. In a note on the voucher, the auditor took exception to the claim for payment at the w/family rate on the theory that [] wife had not traveled under Agency orders or at Agency expense, it apparently being his thought that these were conditions precedent to the payment of the transfer allowance to [] at the w/family rate.

4. We cannot agree. The transfer allowance is the subject of Sections 250 through 252.3 of the Standardized Regulations (Government Civilians, Foreign Areas). Nowhere in these regulations is it required that, in order for a married employee to receive a transfer allowance at the w/family rate, the family must have traveled under Government orders

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and at Government expense. In the absence of a specific treatment of the subject, we believe we may look to the purpose of the transfer allowance in order to resolve the issue. In Section 251.11, a transfer allowance is defined as:

"a cost of living allowance granted . . . to an employee for extraordinary and necessary expenses deemed incident to the establishment of his residence at the post of assignment".

25X1A9A Under Section 251.3, the distinction is made between rates of payment in terms of w/family or wo/family. It would seem to us that the problem which the allowance is aimed at alleviating is that of the expense incident to setting up a new home at a new location. And it would seem that an employee would have this expense whether his family moved at Government expense and under Government orders or by private means. This being so, we conclude [] to be entitled to the payment of the transfer allowance at the w/family rate.

5. This conclusion has been checked with the Department of State; and we are informed that under the circumstances of this case that Department would pay the allowance at the w/family rate.

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[]
Office of General Counsel

OGC/HF:pkb

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